

SENATE BILL REPORT

ESHB 2098

As Reported by Senate Committee On:
Financial Institutions & Insurance, February 20, 2018

Title: An act relating to making financial services available to marijuana producers, processors, retailers, qualifying patients, health care professionals, and designated providers.

Brief Description: Making financial services available to marijuana producers, processors, retailers, qualifying patients, health care professionals, and designated providers.

Sponsors: House Committee on Judiciary (originally sponsored by Representatives Sawyer, Vick, Kirby and Condotta).

Brief History: Passed House: 1/31/18, 82-12.

Committee Activity: Financial Institutions & Insurance: 2/15/18, 2/20/18 [DP, DNP].

Brief Summary of Bill

- Specifies that financial institutions that provide financial services to the regulated marijuana industry do not commit a crime for providing those financial services.

SENATE COMMITTEE ON FINANCIAL INSTITUTIONS & INSURANCE

Majority Report: Do pass.

Signed by Senators Mullet, Chair; Hasegawa, Vice Chair; Fortunato, Hobbs and Kuderer.

Minority Report: Do not pass.

Signed by Senator Angel, Ranking Member.

Staff: Jeff Olsen (786-7428)

Background: In 1998, Washington voters approved Initiative 692 which permitted the use of marijuana for medical purposes by qualifying patients. Initiative Measure No. 502 (I-502) was a ballot measure approved by Washington voters in November 2012, that legalized the production, processing, possession, and personal use of marijuana. I-502 also revised provisions in criminal statute to accommodate such legalization in accordance with the requirements of the initiative.

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Washington is one of at least 29 states, plus Washington D.C., that have passed legislation allowing the use of marijuana for medicinal purposes and one of eight states, plus Washington D.C., that allow its recreational use. These activities, however, remain illegal under federal law. Marijuana is classified as a Schedule I substance under the federal Controlled Substances Act, and the manufacture, possession, or distribution of Schedule I substances is a criminal offense.

On February 14, 2014, a Department of Justice Memo was issued stating the money laundering statutes, the unlicensed money remitter statute, and the Bank Secrecy Act remained in effect regarding marijuana and the financial sector. The memo stated that federal prosecution of a state's legalized market would follow specified enforcement priorities, provided that the state enacted and enforced rigorous regulatory schemes to govern the market. It also reminded financial institutions that they could face potential criminal liability if they engage in business with marijuana-related businesses.

On January 4, 2018, U.S. Attorney General Jefferson B. Sessions issued a short memorandum rescinding previously issued guidance from the U.S. Department of Justice as to marijuana-related businesses and the provision of financial services to marijuana-related businesses. Sessions' January 4, 2018 memo instructs federal prosecutors to follow pre-existing principles of prosecutorial discretion established in 1980 and as reflected in the U.S. Attorney's Manual, consistent with the U.S. Department of Justice's finite resources.

Summary of Bill: Financial institutions that receive deposits, extend credit, conduct fund transfers, or provide other financial services for a marijuana producer, processor, retailer, qualifying patient, health care professional, or designated provider authorized under Washington law does not commit a crime for providing those financial services.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony: PRO: Recent changes at the federal level have created uncertainty for our financial institutions that provide services to the legal marijuana industry. Recently a community bank turned away a retailer due to the uncertainty in regulations. There is strong support to get cash out of the marijuana business, and this bill would assist that effort.

Persons Testifying: PRO: Representative David Sawyer, Prime Sponsor; James McMahan, Washington Association of Sheriffs & Police Chiefs; Paula Sardinias, Northwest Credit Union Association.

Persons Signed In To Testify But Not Testifying: No one.